

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



March 24, 1981

ALL-COUNTY LETTER NO. 81-28

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: ORTIZ V. WOODS AND HARLEY V. WOODS

REFERENCE: MANUAL OF POLICIES AND PROCEDURES SECTION 22-022.51

On January 26, 1981, a Preliminary Injunction was issued by the Los Angeles Superior Court in the two consolidated cases of Ortiz v. Woods (No. C 327889) and Harley v. Woods (No. 000616), a copy of which is attached.

The Department and county welfare departments have been ordered not to apply Manual of Policies and Procedures (MPP) Section 22-022.51 in a fashion that denies "aid paid pending" to those recipients who file a request for a state hearing after the 10 day notice period, but before the effective date of the proposed action. This injunction extends the time period during which a recipient may request a state hearing and receive "aid paid pending" when a notice of action is sent more than 10 days prior to the effective date of the action. It does not require that counties send notices more than 10 days prior to the effective date of the action.

The State and counties were ordered to comply with this court order beginning January 26, 1981.

Therefore, all counties shall take appropriate action to issue "aid paid pending" in all cases where benefits are reduced or terminated, beginning with February 1, 1981, and the claimant's request for a state hearing is filed anytime before the effective date of the action. This also requires counties to review all cases which are already in the state hearing system, but which have not yet been heard before a state hearing officer and issue aid paid pending as appropriate. The Office of the Chief Referee will review those cases which have been heard before a state hearing officer and take the steps necessary to ensure that the "aid paid pending" determinations are consistent with this court order.

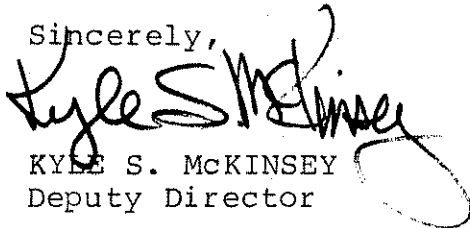
In addition, counties are required to immediately include the language in Attachment A, on or with all Notices of Action that propose to reduce or terminate benefits. Counties which have the capability of modifying their Notices of Action are encouraged to insert this language on the notice itself.

This court order is not applicable to Medi-Cal and other programs administered by the Department of Health Services. As a result, these instructions do not apply to "aid paid pending" determinations involving those programs and you should continue to apply MPP § 22-022.51 in the usual manner. We are informed, however, that the Department of Health Services will issue instructions consistent with this court order regarding Medi-Cal "aid paid pending" determinations.

The Department has filed an appeal from the issuance of the Preliminary Injunction. In the interim, the Department is in the process of complying with the Preliminary Injunction and will inform you of any developments which may require further county action.

If you have any questions regarding the implementation of this court order, please contact your AFDC management consultant at (916) 445-4458.

Sincerely,

A handwritten signature in black ink, appearing to read "Kyle S. McKinsey", is written over the typed name and title.

KYLE S. MCKINSEY  
Deputy Director

Enclosure

PROPOSED STUFFER LAN AGE:

IMPORTANT STATE HEARING INFORMATION

Despite what is says on the Notice of Action, if you file a request for a state hearing any time before the effective date of the county's proposed action, you are entitled to have your present benefits continued until the hearing.

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9

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 FOR THE COUNTY OF LOS ANGELES

12 DOMINGA ORTIZ, ) CLASS ACTION  
13 )  
14 Plaintiff, )

14 vs. ) Case No. C327889  
15 )

15 MARION WOODS, as Director )  
of the State Department of )  
16 Social Services, )  
17 Defendant. )

18 )  
19 J.S. HARLEY, on behalf of ) Case No. CA 000616  
himself and all others )  
20 similarly situated, )

21 Plaintiff, )  
22 vs. ) PRELIMINARY INJUNCTION  
23 )

23 MARION WOODS, as Director )  
of the State Department of )  
24 Social Services, )  
25 Defendant. )

26 )  
27 The above matter having been heard in Department  
28 85 of the above-entitled court on January 26, 1981, Marilyn Katz

1 and Marsha Lynn Jones appearing for the plaintiffs and Deputy  
2 Attorney General Elizabeth Hong appearing for the defendant,  
3 the matter having been fully argued, and the Court having  
4 considered the pleadings and papers on file in these cases and  
5 the arguments of counsel, and good cause appearing:

6         The Court finds that both the due process clause of  
7 the Fourteenth Amendment, as interpreted in Goldberg v. Kelly,  
8 397 U.S. 254 (1970), and 45 C.F.R. § 205.10(a)(6), as interpreted  
9 by the Federal District Court in Almeida v. Chang, 434 F. Supp.  
10 1177 (D.C. Hawaii, 1977) require that recipients who request  
11 an administrative hearing before the effective date of a  
12 discontinuance, termination or reduction in aid receive the  
13 benefits they would have received if the proposed action were  
14 not taken, pending a final decision on their state hearing.

15         IT IS HEREBY ORDERED that during the pendency of this  
16 action, or until the final determination thereof, or until the  
17 Court shall otherwise order, the Defendant, his successors in  
18 office, agents, assigns, employees, and all persons acting in  
19 concert with him or subject to his control and supervision,  
20 shall be, and hereby are, enjoined and restrained from dis-  
21 continuing, terminating or reducing the public assistance of  
22 recipients who receive written notice from the State of a dis-  
23 continuance, termination, or reduction in aid and file a hearing  
24 request between the date of the notice of the discontinuance,  
25 termination, or reduction and the next regular date of aid  
26 payment when the notice will be effective.

27         This order is effective immediately. Therefore,  
28 defendant is prohibited from discontinuing, terminating or

1 reducing aid effective February 1, 1981 to recipients who filed  
2 hearing requests on or before that date.

3 IT IS FURTHER ORDERED that Defendant, his successors  
4 in office, agents, assigns, employees, and all persons acting  
5 in concert with him or subject to his control and supervision,  
6 shall effectuate this Order by:

7 (1) amending Manual of Policies and Procedures  
8 Section 22-022.51 to provide that:

9 Except as provided in .52 below, when  
10 the claimant files a request for a  
11 state hearing prior to the effective  
12 date of the action, aid shall be  
13 continued until the hearing decision,  
14 in the amount that the claimant would  
15 have been paid if the proposed action  
16 had not been taken.

17 EXAMPLE: If the notice says the effective  
18 date of the action is May 1st, the  
19 request must be filed on or before May 1st.

20 .511 In the Food Stamp Program if a  
21 recipient fails to file a request on  
22 or before the effective date of the  
23 proposed action, aid pending is  
24 appropriate provided the recipient  
25 establishes good cause with the Chief  
26 Referee or the hearing officer (see  
27 Section 63-804.61). The criteria for  
28 good cause shall be those specified

1 in Section 22-053.14.

2 (2) ensuring that notices of proposed action sent  
3 to recipients advise them that if they request a hearing on or  
4 before the effective date of the action, their aid may continue  
5 until the fair hearing decision has been reached.

6 Bond is waived.

7 Dated: JAN 26 1981

8  
9 JUDGE LEON SAVITCH

10 Judge of the Superior Court  
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